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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

KENNETH G. HANSEN, an individual,
DAVID RUTTER, an individual, TODD
FISHER, an individual, FIBERTEL, INC, a
Utah corporation, and K&D
DEVELOPMENT, LC, a Utah limited
liability company, and DOUGLAS A.
SMITH, an individual

Plaintiffs,

vs.

MARC S. JENSON, an individual, MSF
PROPERTIES, LC, a Utah limited liability
company, BANK ONE, N.A., a national
banking association, MARK ROBBINS, an
individual, MADTRAX GROUP, LLC, a
Utah limited liability company, SPENCER
BRANNAN, an individual, FIRST
WASATCH DEVELOPMENT, INC., a
Nevada corporation, and DOES 1-50,

Defendants.

**PLAINTIFFS' RULE 26(a)(3) PRETRIAL
DISCLOSURES**

Case No. 2:04-cv-867-TS

Judge Ted Stewart

Plaintiffs David Rutter, Todd Fisher, Fibertel, Inc., K&D Development, L.C., and Douglas Smith, through their undersigned counsel, make the following pretrial disclosures pursuant to Rule 26(a)(3), F.R.Civ.P:

1. Plaintiffs will call as witnesses at trial:

David Rutter
Todd Fisher
Douglas A. Smith

The above individuals may be contacted care of Parr Waddoups Brown Gee & Loveless, at the address and phone number stated above.

Marc S. Jensen
c/o Mark F. James
Hatch James & Dodge
10 West Broadway, Suite 400
Salt Lake City, UT 84101
Tel. (801) 363-6363

Mark Robbins
c/o Andrew Deiss
Jones Waldo Holbrook & McDonough
170 South Main, #1599
Salt Lake City, UT 84101
Tel. (801) 521-3200

Spencer Brannan
6429 S. Trophy Court
Gilbert, AZ 85297
Tel. (602) 770-7640

Benjamin Lightner
1722 West 8760 South
West Jordan, Utah 84088
Tel. Unknown

Douglas Holmes
c/o Steven W. Bennett
Bennett Tueller Johnson & Deere
3165 E. Millrock Drive, #500
Salt Lake City, Utah 84121
Tel. (801) 438-2000

Stan C. Craft, MAI
313 South 740 Eastr, Suite 1
American Fork, UT 84003
Tel. (801) 492-0000

Plaintiffs reserve the right to present testimony of “will call” witnesses by deposition taken either in the instant case or in *Bodell Construction Company v. Robbins, et al.*, Third District Court for Salt Lake County, Utah, Civil No. 030917018 (hereinafter “*Bodell v. Robbins*”) if such witnesses are defendants, cannot be located or are not within the court’s jurisdiction.

2. Plaintiffs may call as witnesses at trial:

Allen Lucas
P.O. Box 1172
Wolfeboro, New Hampshire 03894
Tel. (603) 569-1865

Chris Haertel
Creskide Funding
320 West 500 South, # 200
Bountiful, UT 84010
Tel. c/o Barry Miller (435) 439-5289

Morris Ebeling
2245 South 1640 West
Woods Cross, UT 84087
Tel. (801) 940-0055

Dale Holt
Last known address:
3150 South 900 West
Salt Lake City, UT 84119
Tel. Unknown

Greg Christensen
Shane Peery
Cherokee & Walker
c/o Francis M. Wikstrom
Parsons, Behle & Latimer
201 South Main Street, Suite 1800
Salt Lake City, UT
Tel. (801) 532-1234

Kenneth Hansen
c/o Davidson and Company
Deseret News Building
30 East 100 South, Suite 100
Salt Lake City, UT 84111
Tel. Unknown

Trevor Larson
2177 Parkway Avenue
Salt Lake City, UT 84109
Tel. (801) 485-9696

Susan Mayo
2451 Lily Langtree Court
Park City, UT 84060
Tel. Unknown

Roy B. Moore
428 E 6400 S
Murray, UT 84107
Tel. (801) 269-9299

Plaintiffs reserve the right to present testimony of “may call” witnesses by deposition if they cannot be located or are not within the court’s jurisdiction.

3. In addition to the above, plaintiffs may present testimony of the following witnesses by deposition (all from *Bodell v. Robbins*):

Robert Brown
David Houser
Michael Peterson

4. Plaintiffs expect to offer some or all of the following deposition exhibits from the instant case and from *Bodell v. Robbins*:

Instant Case: Exhibit Nos. 1, 10, 11, 14, 15, 16, 17, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 34, 35, 36, 37, 38, 39, 42, 43, 44, 47, 50, 52, 53, 54, 59, 60, 61, 62, 63, 64, 65, 66, 67, 69, 70, 71, 76, 77, 78, 80, 81, 82, 83, 85, 90, 91, 92, 94, 98, 99, 100, 101, 102, 104, 105, 106, 107, 109, 110, 111, 112, 113, 114, 115, 116, 118, 119, 120, 121, 122 and 125.

Bodell v. Robbins: Exhibit Nos. 106, 107, 108, 114, 116, 117, 118, 121, 125, 127, 128, 132, 140, 141, 142, 143, 144, 151, 152, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 215, 216, 217, 218, 218, 222, 224, 225, 302, 307, 308, 309, 310, 311, 312, 313, 314, 402, 404,

405, 406, 408, 410, 411, 412, 420, 501, 502, 503, 504, 506, 507, 508, 509, 510, 511, 512, 515, 518, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535 and 655.

5. Plaintiffs may offer any deposition exhibit identified in the instant case and in *Bodell v. Robbins* not listed above, and may also offer the following additional exhibits:

- a. Documents produced by Creekside Funding regarding the \$706,000 loan made by Creekside on or about November 2, 2000 (the "Creekside Loan"), Bates Numbers CF 0001-0274.
- b. Documents that may be produced by Dale Holt in response to trial subpoena relating to \$345,000 loan made by Holt on or about September 26, 2000 (the "Holt Loan").
- c. The appraisal report prepared by Stan C. Craft dated March 10, 2008, regarding the Lehi property plaintiff K&D Development on which K&D granted trust deeds to secure the Holt Loan and the Creekside Loan.
- d. Illustrative exhibits showing payment of funds to Mark Robbins, Mark Jenson and Cherokee & Walker.
- e. Declaration of Douglas Holmes dated March 11, 2008.
- f. Declaration of Allen Lucas dated March 14, 2008.

Plaintiffs reserve the right to offer additional exhibits that they may identify prior to trial and will provide copies to defendants sufficiently in advance of their being offered at trial that defendants will have opportunity to review any such exhibits and prepare objections, if any.

DATED this 30th day of July, 2008.

PARR WADDOUPS BROWN GEE & LOVELESS

By /s/ Jenifer L. Tomchak
Stephen J. Hill
Robert B. Lochhead
Jenifer L. Tomchak
Attorneys for Plaintiffs